

REMARKS

New dependent claims 27 - 29 have been added ultimately depending from claim 7. Claims 7 – 29 are currently pending in the present application.

In the Office Action, claims 7-9, 11, 12, 13-17, 18, 19, 20-22, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nusser et al US Patent No. 4,996,736 in view of Wiske et al EP 1 208 786. Also, in the Office Action, claims 10, 23, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nusser et al US Patent No. 4,996,736 and Wiske et al EP 1 208 786, and further in view of Taniguchi JP11-107653.

Favorable reconsideration of the rejection of claims 7 – 26 is respectfully requested in view of the following comments.

Independent claim 7 of the present application recites a vacuum cleaner comprising a housing, in which a dust chamber, which is closable by a dust chamber cover, for reception of a dust separator and a fan chamber for reception of a motor-fan unit are constructed and which has a receiving chamber for accessories, which extends below at least one of the dust chamber and the fan chamber and is accessible by way of at least one opening in the housing, wherein the at least one opening is provided in a side wall of the housing.

Nusser et al US Patent No. 4,996,736 discloses a vacuum cleaner having a motor chamber zone 2 and the dust chamber zone 2a. The dust chamber zone 2a is covered by the cover 3 which is conformed to the geometrical configuration of the bottom of the vacuum cleaner housing 1. At the points of transition to the upright walls there are provided the rollers 4, and the cover 3 has clearances at these points. In the handle region 6 of the vacuum cleaner the cover 3 has a locking means 7 which can be easily grasped after the vacuum cleaner has been brought into an upright standing position. The cover 3 is suspended in the motor chamber zone 2 by means of hinges 8. In an alternative embodiment (not shown) it is also possible to provide two hinges which are symmetrical with respect to the

central axis. The cover 3 is reinforced by ribs 5 which extend onto the motor chamber zone 2 of the housing 1 and which serve as skids 5. For opening the cover 3 the vacuum cleaner is brought into the position as shown, commonly by grasping the handle 6 thereof. In this way, it is easy to actuate the locking means 7. FIG. 2 shows the L-shaped resilient tongue 9 which is arranged on the cover. When the cover 3 is in the closed condition, the resilient tongue 9 engages a clearance in the handle region of the bottom side of the housing. By the pressure of a finger the resilient tongue is pressed away from the clearance so that the cover 3 can be opened. The hinges 8 are provided with a click-stop position, whereby the cover 3 remains in the click-stop position after it has been opened. The cover 3 is provided with a double bottom so that it is suitable for taking up spare parts such as replacement dust bags, fine filters, operating instructions and the like. When the opened cover is pushed beyond the click-stop position of the hinges, the hinges will separate and the cover can be completely removed from the housing 1 of the vacuum cleaner.

Wiske et al EP 1 208 786 discloses a vacuum cleaner 1 having a housing 2. The housing 2 has a compartment 6 for reception of spare parts. The compartment 6 is closable by a cover 7, which in its closed state is matched to the housing 2 to be flush therewith.

Taniguchi JP11-107653 discloses a louver door.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nusser et al US Patent No. 4,996,736 in view of Wiske et al EP 1 208 786. It is respectfully submitted that claim 7 patentably defines over the prior art of record. It is respectfully submitted that none of the prior art of record would provide one of skill in the art with any motivation for, or any hint of the desirability of, combining Nusser et al '736 and Wiske et al EP '786 with one another. Nusser et al '736 discloses a vacuum cleaner having a motor chamber zone 2 and the dust chamber zone 2a. Wiske et al EP '786, on the other hand, discloses a vacuum cleaner 1 having a housing 2 with the housing 2 having a compartment 6

for reception of spare parts. It is submitted that Nusser et al '736 itself would provide no motivation for one of skill in the art to selectively incorporate features of the Wiske et al EP '786 arrangement. For example, Nusser et al '736 discloses a vacuum cleaner and Nusser et al '736 neither discloses nor hints at the desirability of providing its arrangement in a vacuum cleaner such as is disclosed by Wiske et al EP '786.

Turning to Wiske et al EP '786, this prior art reference as well would provide no motivation for one of skill in the art to selectively incorporate features of the Wiske et al EP '786 arrangement into the Nusser et al '736 arrangement. Wiske et al EP '786 discloses a vacuum cleaner that is not associated with any other structure. Thus, it is submitted that Wiske et al EP '786 would provide no hint or motivation to one of skill in the art to refer to a prior art reference such as Nusser et al '736 that is directed to a structure for providing storage for vacuum accessories. A critical step in analyzing the patentability of claims pursuant to 35 U.S.C. § 103 is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. See *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher." *Id.* (quoting *W.L. Gore & Assocs. Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 313 (Fed. Cir. 1983)).

Since neither Nusser et al '736 or Wiske et al EP '786 discloses or suggests a refrigeration appliance that includes a recites a vacuum cleaner comprising a housing, in which a dust chamber, which is closable by a dust chamber cover, for reception of a dust separator and a fan chamber for reception of a motor-fan unit are constructed and which has a receiving chamber for accessories, which extends below at least one of the dust chamber and the fan

chamber and is accessible by way of at least one opening in the housing, wherein the at least one opening is provided in a side wall of the housing, it is submitted that any teaching, suggestion, or incentive possibly derived from the prior art to combine Nusser et al '736 and Wiske et al EP '786 in the manner suggested in the Office Action is only present with hindsight judgment in view of the instant application. "It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps. . . . The references themselves must provide some teaching whereby the applicant's combination would have been obvious." *In re Gorman*, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991) (emphasis added by Applicant). Here, no such teaching is present in Nusser et al '736, Wiske et al EP '786 or any other prior art. It is a requirement for a *prima facie* case of obviousness that the prior art references must teach or suggest all the claim limitations. Upon evaluation of the Office Action, it is respectfully believed that the evidence adduced is insufficient to establish a *prima facie* case of obviousness with respect to claims 14 - 19.


For these and other reasons, Nusser et al US Patent No. 4,996,736, Wiske et al EP 1 208 786, and Taniguchi JP11-107653, either alone or in any combination, do not teach or suggest the subject matter defined by dependent claims 7-26. Therefore, claims 7-26 are allowable.

It is also submitted that claims 23 and 27 - 29 patentably define over the prior art of record. None of the cited art of record teach or disclose a louver shutter to selectively permit access to, and prevent access to, an accessory receiving chamber of a vacuum cleaner. Taniguchi JP11-107653 relates to doors and windows and it is submitted that one of skill in the art would have no motivation to selectively incorporate the louver door disclosed in Taniguchi JP11-107653 into a vacuum cleaner.

CONCLUSION

In view of the above, entry of the present Amendment and allowance of claims 7 - 29 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,



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